

Chief, Fiscal Division

17 November 1952

Office of the General Counsel

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Home Leave - [REDACTED]

REFERENCE: Memorandum from Chief, Fiscal Division to General Counsel, dated 4 March 1952, subject: Home Leave

1. The referenced memorandum requests the advice of this office on the propriety of the payment of travel charges incident to the transfer of official station of Mr. [REDACTED] employee,

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[REDACTED]

2. Mr. [REDACTED] travel orders are silent with respect to the authorization of this travel expense claimed, and state only that any travel time in excess of regular schedules will be chargeable to leave. Mr. [REDACTED] had considerably in excess of the required accumulation of thirty days annual leave. He spent, however, only thirty days before proceeding with the remainder of his travel to [REDACTED]

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3. The general subject of the propriety of granting home leave on orders for permanent change of station to the continental United States is discussed in a memorandum from this office to the Comptroller of 6 November 1952, a copy of which is attached hereto.

4. It is our opinion that the considerations therein discussed apply in Mr. [REDACTED] case. His claim, however, presents the question whether [REDACTED] requires not only that there be an original accumulation of thirty days leave as a condition precedent to the issuance of orders, but also that the individual recipient of the travel orders spend at least thirty days on leave. We do not believe that this latter requirement should be placed upon the grant of the original authority. To do so would unreasonably penalize an individual who has drawn less of a benefit from the Government than the maximum to which he would be otherwise entitled. It does not appear that the Congress intended, for instance, that an individual who was compelled by extraordinary personal reasons to return to a post overseas before the completion of thirty days leave would be required to refund the travel charges advanced. We do not, therefore, interpret the proviso as containing a condition subsequent to originally authorized expenses.

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25X1A9a 5. Similar logic would bear upon Mr. [ ] claim. He left [ ] for a short stay in order that he could establish his family in advance of undertaking his duties there. He was particularly anxious to enter his children in school without additional delay as the school year had already commenced. Furthermore, although his reason may have been personal, it is not improper to state that the Agency benefited from the advanced date of his reporting for duty

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6. Travel expenses incident to home leave were not authorized by Mr. [ ] original orders. However, in the light of the foregoing, we would have interposed no legal objection to the authorization of the payment of the claimed expense on properly issued orders. It is therefore our opinion that there is no legal prohibition to the amendment of Mr. [ ] original orders to permit the payment for travel [ ] and return. If his orders are amended accordingly, his claim, if in all other respects proper, may be paid.

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Attachments - Subject File

Memo fr OGC to Comptroller dated 6 November 1952 (cc)

OGC/GHK:imm

Distribution -

Orig - Addressee  
1 - Comptroller ✓  
1 - OGC

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